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DAE #7

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****APPLICANT:** Jean-Pierre Giraud**Group Art Unit:** 3727**SERIAL NO.:** 09/865,792**Examiner:** Steven M. Pollard**FILED:** May 25, 2001**Attorney Docket No.:** 5094.056**TITLE: A DUAL WALL INSULATED CUP  
ASSEMBLY AND METHOD OF  
MANUFACTURING AN  
INSULATED CUP ASSEMBLY****RECEIVED**

OCT 31 2002

**OFFICE OF PETITIONS****PETITION TO REVIVE PURSUANT TO 37 C.F.R. 1.137(f)**

Assistant Commissioner for Patents  
Washington, D.C. 20231  
S I R:

Applicant hereby requests that the above-identified patent application, U.S. Serial No. 09/865,792, be revived, pursuant to 37 C.F.R. 1.137 (f), and that the status of the application be returned to pending.

On October 24, 2002, Applicant's law firm's paralegal was discussing U.S. serial number 09/947,596 entitled timely SYSTEM AND METHOD FOR MAINTAINING, TRACKING AND IDENTIFYING THE INTEGRITY OF A DISPOSABLE SPECIMEN CONTAINER WITH A RE-USABLE TRANSPONDER with the client. During those discussions, the paralegal realized that no "Request To Rescind Previous Nonpublication Request" was submitted for that application. The paralegal immediately notified the undersigned attorney. Because this was done by the previous paralegal, who no longer works for the undersigned firm, the undersigned became concerned that the previous paralegal had not followed his express instructions to file a "Request To Rescind Previous Nonpublication Request" when filing a foreign corresponding application, if a nonpublication request had been previously filed.

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Attorney Docket No.: 5094.056  
U.S. Serial No.: 09/865,792  
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Based on this discovery, immediately thereafter, the undersigned attorney instructed the new paralegal to search all applications that were filed after November 29, 2000, when the law regarding publication changed, and that had a corresponding foreign filing. After the files were collected and reviewed today, the undersigned attorney first discovered that the previous paralegal had ignored my express instructions and did not file a request to rescind form for several applications.

Consequently, based on the above facts, any delay in filing the Request To Rescind Previous Nonpublication Request form for application U.S. serial number 09/865,792, from the due date was unintentional and any delay was unintentional. The PCT application number is PCT/US01/49073 and the filing date of the PCT application is 12/18/2001.

Pursuant to 37 C.F.R. 1.137, the petition is accompanied by: (1) the "Request To Rescind Previous Nonpublication Request;" and (2) the petition fee under 1.17(m).

The undersigned respectfully requests prompt attention to this matter.

Respectfully submitted,



Barry J. Schindler  
Reg. No. 32,938

Date: October 28, 2002  
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PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
5094.056

First named inventor: Giraud, Jean-Pierre

Application No.: 09/865,792

Art Unit: 3727

Filed: 05/25/2001

Examiner: Pollard, Steven M.

Title: A DUAL WALL INSULATED CUP ASSEMBLY AND  
METHOD OF MANUFACTURING AN INSULATED CUP ASSEMBLY

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus an extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$\_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1280.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in

the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

B. The issue fee of \$\_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

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Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on  
the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC  
20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

October 28, 2002

Date

  
Signature

Telephone  
Number: (212) 328-6135

Barry J. Schindler

Typed or printed name

499 Park Avenue, 20th Floor

Address

New York, NY 10022

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: REQUEST TO RESCIND PREVIOUS NONPUBLICATION REQUEST 35 U.S.C. 122(b)(2)(B)(ii)

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Type or printed name of person signing certificate